

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1406 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE D.G.KARIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KARSAN LAKHMAN

Versus

STATE OF GUJARAT

Appearance:

MRS MADHUBEN SHARMA for Petitioner

Mr.N.N.PANDYA,ADDL.PUBLIC PROSECUTOR for

Respondents.

SERVED for Respondent No. 2, 3

CORAM : MR.JUSTICE D.G.KARIA

Date of decision: 06/03/96

ORAL JUDGEMENT

This is an application for grant of furlough by the petitioner-convict, Karsan Laxman, who is a convict for the offence under section 302 of the Indian Penal Code and undergoing his lifer since July 20,1992. He was

also in jail as an undertrial prisoner. He has preferred Criminal Appeal against the said conviction and the appeal is pending.

I have heard Mrs.Madhuben Sharma, for the petitioner, and also Mr.N.N. Pandya, learned Addl. Public Prosecutor, for the respondent-State. It is not in dispute that the petitioner has become eligible and entitled to get his due furlough leave in accordance with the rules relating thereto, way back in 1994. However, despite application, the jail authority has not granted his due furlough leave. It appears that the first application for grant of furlough leave was granted on 7.2.1995, but the parties in opposition objected to grant of furlough to the petitioner and moved this Court by filing Criminal Misc. Application No.81/95. The Division Bench consisting of M.B.Shah and D.H.Nazir, JJ. (as they were then) by order dated 31.1.1995, directed the I.G. Prisons not to grant any parole to the respondents Nos.1 to 4 of that case, the petitioner herein being the respondent No.1, without verifying the facts stated by the applicant in the said petition and without obtaining the opinion of the D.S.P. Pursuant to the said order, it appears that statements of Meramal Vishram and Asi Deva came to be recorded. They being parties in opposition would obviously object to grant of any furlough leave to the applicant. They apprehend that if the petitioner is released on furlough leave, it would cause danger to them. However, the petitioner was released on furlough leave during the period from 25.7.1994 to 10.8.1994 and he had surrendered in time and no untoward incident had taken place. Under the circumstances, in absence of any cogent or reliable evidence to show that it would not be safe to release the petitioner on furlough, furlough leave should not have been refused to him. However, the petitioner wants to be released at village Bhakhsar in Kutiyana. The place of offence is Porbandar. Therefore, by imposing necessary condition to the effect that the petitioner shall not enter Porbandar city limits during the period of his furlough, I am of the view that there could not be any danger or apprehension to the parties of the other side. Under the circumstances, the application deserves to be granted.

In the result, the application is allowed. The petitioner, Karsan Lakhman, Convict No.S/4981, undergoing sentence in Central Jail, at Sabarmati, Ahmedabad, at present, is ordered to be released on his due furlough leave on the usual terms and conditions and on the further condition that he shall not enter the limits of

Porbandar City during the furlough-period.

Rule is accordingly made absolute.

(D.G.Karia,J)

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